

Report on Proposed Zoning Ordinance
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By

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TO THE MEMBERS OF THE CENTRAL PLANNING BOARD:--

The Sub-Committee appointed to prepare a new Zoning Ordinance and District Map, has completed its studies and made its report to your Honorable Body. In compliance with your directions, I am submitting this report analyzing the proposed Ordinance as a meager aid to you in your deliberations on this important matter.

Zoning is the legal device by which the use of privately-owned property may be publicly controlled for the good of the community. Zoning regulations shall be in accordance with a comprehensive plan. The power to zone is based on the exercise of the police power granted by the State to the cities. It consists of dividing the community into districts, and regulating in such districts, the use of the land, height of the buildings, and the area of the land occupied by the buildings.

The first consideration mentioned above, as a basis for these regulations, is that they shall be in accordance with a comprehensive plan. This means that they shall be related to the structure of the entire city and the facilities to serve it. Piece-meal and so-called "spot zoning" is not only unsound in principle, but is also a violation of the statute under which the city is granted its authority.

It is obvious that any exercise of the police power must be reasonable. By following the language of the law relating to the purposes of zoning, arbitrariness or unreasonable treatment of existing property can be avoided.

It should be kept in mind, however, that the city must also be viewed as a whole, and the interest of the individual balanced against the public interest, so as to accomplish the greatest good for the greatest number, public welfare taking precedence over individual profit.

The Central Planning Board was authorized by The City Commission to prepare a new Zoning Map for our city. Our present Zoning Ordinance was adopted in 1930. This Ordinance superseded the original one which was enacted in 1920. A period of 22 years has now elapsed since the 1930 regulations were adopted. During that time, there have been numerous amendments to the Ordinance, and a large number of exceptions and variations have been granted by the Board of Adjustment. Most of these amendments and variations were directed toward lowering the restrictions on some small area, frequently from a residence to a business use. Consequently, there is an apparent need for a wholesale overhauling of both the text of the Ordinance, and the District Map. This can best be done by preparing a completely new set of regulations and districts, based on present-day conditions.

The Central Planning Board, in the adoption of its Master Plan, made the new Zoning Map one of the important aspects of the plan. This proposed Zoning Ordinance, together with the proposed District Map, was prepared after comprehensive studies had been made, which resulted in the preparation of reports, such as the land use report and a land use map, a building height map, a density of population map, and an industrial map. These studies, which were started in 1947, have been continued

to date, and the proposed new Zoning District Map and draft of the text of the proposed new Zoning Ordinance, which accompanies this report, is the culmination of these efforts.

It is the purpose of this report to attempt to give, in general terms, an analysis of the present Zoning Ordinance as compared to the proposed Zoning Ordinance. The present Ordinance provides for seven districts, of which three are for some form of residence; two are for business, and two are industrial. The proposed Ordinance suggests a total of eleven districts, of which four are for residence, four are for business, and three are for industrial use. The reasons for increasing the number of districts will be apparent when they are discussed in detail later in this report.

In making the recommended revisions, consideration has been given both to the character and extent of existing development, and the land use requirements of the city's present and future population. The proposed plan is coordinated with other elements of a comprehensive city plan, particularly those plans having to do with the redeveloping and rehabilitating of the slums and blighted areas. All of the proposed changes are designed to bring about a land use pattern more in keeping with present and future conditions.

The present Zoning Ordinance sets out the use regulations for each district, and the height, bulk and area requirements are in the form of a schedule, to which reference is made in the text of the Ordinance at appropriate places. In order to consolidate all of the regulations for each district, the proposed Ordinance

eliminates the schedule and combines the use, height and area requirements for each district in the text of the Ordinance. Accompanying the proposed Ordinance is a table, summarizing for ready reference, the various regulations. A careful study was made of the definitions, and it was deemed advisable to supplement these by additional ones for the purpose of clarity and ease of enforcement.

The general form of the present Ordinance is followed in the proposed new Ordinance; the regulations for each district being set out, and then followed by the general sections having to do with non-conforming uses, additional height and area requirements, the Board of Adjustment, enforcement, and the like.

SINGLE FAMILY DISTRICTS

The present Ordinance, in its "First Residence Districts" designates certain areas for single-family dwelling purposes. An examination of the present District Map and use map shows there are areas which are now zoned for single-family purposes, but which have been developed by other uses, principally two-family.

A large area lying on both sides of South Orange Avenue in Vailsburg, is zoned for single-family purposes, but its development is predominantly two-family and multiple-family. A similar situation exists in the Weequahic Section west of Bergen Street and south of Hawthorne Avenue. A similar condition prevails in the northwest part of the city in an area lying between Park Avenue and 2nd Avenue. The area in Forest Hill,

between Grafton Avenue and Montclair Avenue falls into a similar category. In all these instances, the proposed Zoning Ordinance changes the classification to a less restricted use.

There are relatively few areas now occupied exclusively by single-family homes. The largest of these areas is in Forest Hill, lying between Clifton Avenue and Branch Brook Park, between 2nd Avenue and Grafton Avenue. Other single-family areas now exist in Vailsburg, and in the Weequashic Section, but they are smaller in area and somewhat cut up by other uses. The proposed Ordinance reduces the area zoned for one-family residences.

The regulations for single-family districts are quite similar to those of the present Ordinance, although a few changes are suggested. For example, it is recommended that the present minimum height of $2\frac{1}{2}$ stories be eliminated. It is proposed that a single-family dwelling have a minimum floor space of 900 square feet, and a minimum cubic content of 12,000 cubic feet. The Board, in its deliberations, was cognizant of the fact that in our single-family districts, there are many large homes. Due to the change in economic conditions, many of these home owners have resorted to the renting of rooms to roomers and boarders. It is proposed, in the new Ordinance, to permit the owners of homes having 7 or more rooms, to have not more than two roomers, provided these roomers do not have any separate cooking or eating facilities.

The proposed Ordinance eliminates regulations pertaining to the maximum building area, and the size of courts.

The regulations regarding front, side and rear areas are sufficient to insure a reasonable land occupancy. Front yard requirements are the same as in the present Ordinance, but a formula for establishing the depth of such yards in partially built-up blocks, is set up. Side yard requirements are simplified, and are based on a percentage of the width of the lot, rather than the height of the building, as at present. Full side yards are required on both sides of a lot. Rear yard regulations are the same as those required under the present Ordinance, except that there is a provision that the rear yard need not exceed 50 feet.

Provision is also made, under certain conditions, for the construction of garages as accessory buildings on the front part of the lot. The present requirement of 2,000 square feet of lot area per family is very low, and it is recommended that this be increased to 4,000 square feet.

SECOND RESIDENCE DISTRICTS

The present Ordinance does not have any district permitting two-family residences, but excluding multiple dwellings. The Second Residence Districts of the present Ordinance permits three-family dwellings, boarding houses and similar uses. While there does not seem to be any pressing need for a district primarily for two-family use, there are certain areas in the city where they predominate. Recognizing this condition, the new Ordinance proposes a new district in which 2 & 3-family dwellings, and garden apartments, would be permitted. No boarding houses would be permitted therein. No building more than 2½

stories in height would be permitted.

A garden apartment is defined, and it is hoped that by the suggested changes, the construction of this type of housing will be encouraged in certain parts of the city. There are several areas proposed to be clarified in this manner. One large area lies in Vailsburg on both sides of South Orange Avenue, where the present zoning is single-family. Other areas of this nature are in the Weequahic Section, south of Hawthorne Avenue, between Bergen Street and Osborne Terrace; in Forest Hill, north of Grafton Avenue and west of Clifton Avenue, and in that part of the city lying west of Branch Brook Park.

Generally speaking, the required yards are the same as in the single-family districts, but the lot area per family required is reduced to 1,500 square feet of lot area per family.

THIRD RESIDENCE DISTRICTS

The present Ordinance provides one multiple dwelling district entitled the "Third Residence Districts." This is a large bulk district which permits apartments, tenement houses and hotels, and which provides a maximum height limit of twice the width of the street on which the property fronts. There are many areas in the city in which the predominate development is 2, 3 or 4-story buildings, and it is recommended that this type of development be recognized by creating a new multiple dwelling district in which no building, more than 4 stories or 50 feet in height, would be permitted. This is called a Third Residence District.

The new Ordinance proposes to change quite a large number of Third Residence Districts to the new Third Residence Districts. In general, these areas are located in the older parts of the city, between the central areas and the outlying residence districts.

Front, side and rear yard requirements are approximately the same as those in the present Third Residence Districts, but in some instances, the requirements are more stringent. One-family would be permitted on each floor for each 1,200 square feet of lot area.

FOURTH RESIDENCE DISTRICTS

The proposed Ordinance provides a multiple dwelling district which permits large apartments and hotels. This is called a Fourth Residence District. In general, these areas are located within those parts of the city which should be redeveloped, and the density requirements are in line with those recommended for districts by the Planning Board in its report on housing.

For example, major portions of the Third Ward and First Ward are shown as Fourth Residence. The development of large apartments either should be in areas scheduled for redevelopment, or along certain parts of our main thoroughfares, where public transportation facilities are adequate. It is recommended that such a district be established on Clinton Avenue, west of Baldwin Avenue and extending to Girard Place. It is also recommended that the easterly side of Mt. Prospect Avenue, between Abington Avenue and Elwood Avenue be changed from its present

single-family zoning to the proposed Fourth Residence, and that the westerly side be made into a Third Residence District.

In the proposed Fourth Residence Districts, there is a height limit of 12 stories or 140 feet.

BUSINESS DISTRICTS

The present Ordinance provides two types of Business Districts. The First Business District permits certain commercial uses, but excludes certain types of business and industries. The Second Business District permits general commercial uses, but excludes certain industrial uses. This Second Business District generally embraces the Central Business District, and the frontage along most of the main thoroughfares. First Business Districts are generally located along the streets in the outlying sections of the city, and at other places where commercial development has been established outside of the Central Business District.

The proposed Ordinance recommends the establishment of four types of business districts. The First Business Districts are generally located in the outlying residence areas. Commercial uses are permitted on the ground floor of any building. The height of any building permitted in this District shall not be higher than that permitted in the adjoining residential district. Private parking areas for the use of occupants of the stores, or their customers, would be permitted under this section.

The Second Business Districts are generally located along the main thoroughfares, and permits general business uses, except

those which are generally considered to be out of place near retail business. The uses permitted in the Second and Third Business Districts are identical, but the difference is in the height limitations. In the Second Business Districts, the height limitations are 4-stories, or 55 feet, and in the Third Business Districts, the height regulations are the same as those in the Fourth Residence Districts.

The Fourth Business District is located in the central part of the city, and it really covers what is known as the downtown area. Instructing the upper floors of many of the buildings in this area cannot be utilized, except for some sort of light industry, the uses permitted in the Fourth District include light industrial uses, but exclude those types of industrial uses which could not be compatible with retail trade. The height limitations in this district is based on the width of the street.

The present Zoning Ordinance permits gasoline filling stations or public garages only in heavy industrial districts, and requires action by the Board of Adjustment, for locations elsewhere. Although as relatively few gasoline stations make locations in heavy industrial districts, the effect of this regulation is to bring practically all applications for such uses before the Board of Adjustment for a decision. This is not a satisfactory way to control such uses, and the new Ordinance recommends that gasoline filling stations be permitted in any industrial district.

The proposed Ordinance changes a considerable amount of frontage from commercial to some form of residential use. This change is logical in those instances where the property is not developed for commercial use, and either is no vacant, or is used for residential purposes.

INDUSTRIAL DISTRICTS

The present ordinance provides two industrial districts. The First Industrial District is limited to industries which are not obnoxious by reason of smoke, dust, or odor. The Second Industrial District permits any except residential. The prohibition of residential development in heavy industrial districts is proper, and should be continued.

The proposed Ordinance provides two light industrial districts, and one heavy Industrial district. The first two Light Industrial districts conform very closely to the present First Industrial District, the only difference being in the height regulation. In those areas located generally in the residential sections of the city, a 4-story height limitation is recommended, while in those areas in the principal industrial sections, the proposed height limitation is the same as in the Fourth Business Districts. It is guided by the width of the street. The proposed heavy industrial or Third Industrial District corresponds generally with the present Second Industrial District, and very few changes are proposed in this instance.

NON-CONFORMING USES

Newark has a built-up city when the original zoning

Ordinance was adopted. There were many vacant commercial and industrial buildings in areas which were zoned for other uses. It was thought that these appropriately located uses would eventually outlive their usefulness, and would either be removed entirely, or replaced by a conforming structure. Unfortunately, this has not been realized, and a great majority of the old buildings still are being used for non-conforming uses.

In addition to the non-conforming uses created when the first Zoning Ordinance was enacted, many new ones have been brought into existence during the past 22 years, through the action of the Board of Adjustment. Such variation is granted, permitting a use which the Zoning Ordinance prohibits in a particular location, legal action is given the chance in use, but the district map is not changed. Consequently, the uses may be more non-conforming, and remain so unless the map itself is changed.

While the proposed new Zoning Ordinance will correct some of the obvious discrepancies, there still will be many non-conforming buildings left. Commercial and industrial uses scattered throughout residential areas often are a major cause of blight, and are detrimental to the welfare of a neighborhood. It will be extremely difficult to rehabilitate these areas so long as the old stores or factories remain.

Long-range development contemplates the eventual rebuilding of the worst of the slum areas, at which time, the non-conforming uses will be eliminated by purchase or condemnation,

but there are many parts of the city which need cleaning up and rehabilitating without going to the extent of completely rebuilding them.

As part of this process of rehabilitation, some practical means must be developed to eliminate the non-conforming use. In some states, the authorities can limit the number of years within which a non-conforming use must be abandoned. Here, in New Jersey, we are prevented from so doing. The proposed new Ordinance prohibits the extension of any non-conforming use, and provides that where a non-conforming use shall have been ~~been~~ discontinued for a period exceeding 12 months, then, in that event, that use shall be deemed to have been abandoned. The proposed Ordinance also provides that notice must be given to the building inspector in the event a partially destroyed building is to be rebuilt to its original state.

ADMINISTRATION

No Zoning Ordinance is more effective than its administration and enforcement. The proposed Ordinance provides that the enforcement of the Zoning Ordinance shall be by the superintendent of buildings. In the past, one of the reasons given for laxity of enforcement has been that the zoning enforcement officer had no help with which to properly enforce the Ordinance. The superintendent of buildings, by virtue of the large staff at his command, is in a position to correct this deficiency.

VEHICLE PARKING

Of late years, the parking problem has become more

perplexing in more ways than one. The owners of commercial vehicles who live in residential districts, have been parking their trucks in front of their homes. This has been annoying to the neighbors, and has tended to destroy property values in the neighborhood. The proposed Ordinance prohibits overnight parking of commercial motor vehicles in First, Second & Third Residence Districts.

The parking problem is also associated with our commercial life. Under the present Zoning Ordinance, the right to provide parking space for customers must be approved by the Board of Adjustment. Parking today is essential to the running of a business. It has become a hardship in the merchants of our community to have to appear annually before the Board of Adjustment for parking permits. The proposed Zoning Ordinance takes cognizance of this fact, and provides that private parking areas may be provided for the use of residents, occupants, or customers, or employees, in connection with the lawful use of said land.

A private parking area is one in which no fee is charged, and in which no parking shall be permitted after 11 o'clock at night on any premises within 150 feet of a Residence District. Public parking lots are permitted as a matter of right in the downtown business area, which is classified as a Fourth Business District.

The proposed Ordinance prescribes certain conditions which must be met by the operators of the public parking lots. It is suggested that a suitable ordinance be prepared to license the

operators of parking lots, and control them by means of an annual license. At present, the operators must procure a license in addition to their getting the approval of the Board of Adjustment.

The present Zoning Ordinance does not provide for any compulsory erection of garages in connection with new residences. The proposed new Ordinance provides that in multiple dwellings, parking accommodations shall be provided for at the rate of one space for every three dwelling units. Considerable thought was given to the desirability of compelling business enterprises to provide off-street loading platforms. Because of the scarcity of open space, and the impossibility of forcing the construction of off-street loading platforms in our downtown area, it was decided to abandon this idea.

The present Ordinance sets forth, in detail, the powers of the Board of Adjustment. This is merely a recital of the powers given to the Board by the State Law. Because in recent years, there have been numerous changes in the State Law and probably will be, in the future, it was deemed to be more expedient to merely recite the section of the State Law under which the Board of Adjustment derives its powers. This method obviates the necessity of amending our Ordinance every time the State Statute is amended.

I have tried, in this report, to give a comprehensive comparison without going into minute details.

Respectfully submitted,

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Executive Secretary ✓

